

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ESTHER L. MANSON,

Plaintiff,

Case No. 12-11473

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 21)**  
**AND**  
**GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR**  
**SUMMARY JUDGMENT OR REMAND (Doc. 12)**  
**AND**  
**DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Doc. 16)**  
**AND**  
**REMANDING MATTER FOR FURTHER ADMINISTRATIVE PROCEEDINGS**

I.

This is a social security case. Plaintiff Esther L. Manson appeals from the final determination of the Commissioner of Social Security (Commissioner) that she is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff and the Commissioner filed cross motions for summary judgment. Plaintiff requested that the Commissioner's decision be reversed and benefits awarded, or that the matter be remanded for further proceedings.

The magistrate judge issued a report and recommendation (MJRR), recommending that plaintiff's motion be granted as to a remand and the

Commissioner's motion be denied. Specifically, the magistrate judge recommends that the matter be remanded under sentence four<sup>1</sup> to the Administrative Law Judge (ALJ) for a hearing "so that the ALJ may (1) call a medical advisor or otherwise secure additional evidence by which to properly infer Manson's disability onset date, and (2) obtain an expert opinion regarding whether the listings for mental disorders, including Listing 12.04, have been met." MJRR at p. 1.

## II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985).

However, the Court has reviewed the MJRR and agrees with the magistrate judge. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's motion for summary judgment is GRANTED IN PART AND DENIED IN PART. The Commissioner's motion for summary judgment is DENIED.

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<sup>1</sup> "A district court's authority to remand a case for further administrative proceedings is found in 42 U.S.C. § 405(g)." Hollon v. Commissioner, 447 F.3d 477, 482-83 (6th Cir. 2006). The statute permits only two types of remand: a sentence four (post-judgment) remand made in connection with a judgment affirming, modifying, or reversing the Commissioner's decision; and a sentence six (pre-judgment) remand where the court makes no substantive ruling as to the correctness of the Commissioner's decision. Hollon, 447 F.3d at 486 (citing Melkonyan v. Sullivan, 501 U.S. 89, 99-100, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991)).

This matter is REMANDED for further administrative proceedings consistent with the MJRR.

SO ORDERED.

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: July 9, 2013

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, July 9, 2013, by electronic and/or ordinary mail.

S/Sakne Chami  
Case Manager, (313) 234-5160